



February 17, 2015

HOUSE BILL No. 1110

DIGEST OF HB 1110 (Updated February 17, 2015 12:37 pm - DI 113)

Citations Affected: IC 33-23; IC 33-33.

Synopsis: Magistrates. Allows the judges of the Clark circuit court to jointly appoint a third full-time magistrate. Allows the judge of the Vanderburgh circuit court to appoint a second full-time magistrate. Allows the judge of the Greene circuit court and the judge of the Greene superior court to jointly appoint one full-time magistrate. Allows a magistrate to: (1) approve and accept criminal plea agreements; (2) approve agreed settlements concerning civil matters; and (3) approve decrees of dissolution, settlement agreements, and any other agreements of the parties in domestic relations actions or paternity actions. Allows the judges of the Marion superior court to appoint four additional full-time magistrates after December 31, 2015. (The introduced version of this bill was prepared by the interim study committee on courts and the judiciary.)

Effective: July 1, 2015.

**Stemler, Steuerwald, Clere,
Lawson L**

January 8, 2015, read first time and referred to Committee on Courts and Criminal Code.
January 22, 2015, reported — Do Pass. Referred to Committee on Ways and Means
pursuant to Rule 127.
February 17, 2015, amended, reported — Do Pass.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1110

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 33-23-5-5, AS AMENDED BY P.L.127-2008,
- 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2015]: Sec. 5. A magistrate may do any of the following:
- 4 (1) Administer an oath or affirmation required by law.
- 5 (2) Solemnize a marriage.
- 6 (3) Take and certify an affidavit or deposition.
- 7 (4) Order that a subpoena be issued in a matter pending before the
- 8 court.
- 9 (5) Compel the attendance of a witness.
- 10 (6) Punish contempt.
- 11 (7) Issue a warrant.
- 12 (8) Set bail.
- 13 (9) Enforce court rules.
- 14 (10) Conduct a preliminary, an initial, an omnibus, or other
- 15 pretrial hearing.
- 16 (11) Conduct an evidentiary hearing or trial.

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(12) Receive a jury's verdict.

(13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.

(14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as described in section 9 of this chapter.

(15) Enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

(16) Approve and accept criminal plea agreements.

(17) Approve agreed settlements concerning civil matters.

(18) Approve:

(A) decrees of dissolution;

(B) settlement agreements; and

(C) any other agreements;

of the parties in domestic relations actions or paternity actions.

SECTION 2. IC 33-33-10-2, AS AMENDED BY P.L.201-2011, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Clark County constitutes the fourth judicial circuit.

(b) The judges of the Clark circuit court may jointly appoint ~~two (2)~~ **three (3)** full-time magistrates under IC 33-23-5 to serve the circuit court.

(c) A magistrate continues in office until **jointly** removed by the judges of the Clark circuit court.

SECTION 3. IC 33-33-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) Greene County constitutes the sixty-third judicial circuit.

(b) The judge of the Greene circuit court and the judge of the Greene superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until jointly removed by the judge of the Greene circuit court and the judge of the Greene superior court.

SECTION 4. IC 33-33-49-32, AS AMENDED BY P.L.100-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 32. (a) In addition to the magistrate appointed under section 31 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint:



1 ~~(1) eight (8) full-time magistrates under IC 33-23-5 after~~
 2 ~~December 31, 2007, and until January 1, 2014, not more than four~~
 3 ~~(4) of whom may be from the same political party; and~~
 4 ~~(2) (1) twelve (12) full-time magistrates under IC 33-23-5 after~~
 5 ~~December 31, 2013, and until January 1, 2016, not more than~~
 6 ~~six (6) of whom may be from the same political party; and~~
 7 **(2) sixteen (16) full-time magistrates under IC 33-23-5 after**
 8 **December 31, 2015, not more than eight (8) of whom may be**
 9 **from the same political party.**

10 (b) The magistrates continue in office until removed by the vote of
 11 a majority of the judges of the court.

12 (c) A party to a superior court proceeding that has been assigned to
 13 a magistrate appointed under this section may request that an elected
 14 judge of the superior court preside over the proceeding instead of the
 15 magistrate to whom the proceeding has been assigned. A request under
 16 this subsection must be in writing and must be filed with the court:

17 (1) in a civil case, not later than:

18 (A) ten (10) days after the pleadings are closed; or

19 (B) thirty (30) days after the case is entered on the
 20 chronological case summary, in a case in which the defendant
 21 is not required to answer; or

22 (2) in a criminal case, not later than ten (10) days after the
 23 omnibus date.

24 Upon a timely request made under this subsection by either party, the
 25 magistrate to whom the proceeding has been assigned shall transfer the
 26 proceeding back to the superior court judge.

27 SECTION 5. IC 33-33-82-3 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The judge of the
 29 Vanderburgh circuit court may appoint ~~one (1)~~ **two (2)** full-time
 30 ~~magistrate magistrates~~ under IC 33-23-5. ~~The~~

31 **(b) A magistrate continues in office until removed by the judge.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1110, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1110 as introduced.)

WASHBURN

Committee Vote: Yeas 10, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1110, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between line 1 and the enacting clause, begin a new paragraph and insert:

"SECTION 1. IC 33-23-5-5, AS AMENDED BY P.L.127-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. A magistrate may do any of the following:

- (1) Administer an oath or affirmation required by law.
- (2) Solemnize a marriage.
- (3) Take and certify an affidavit or deposition.
- (4) Order that a subpoena be issued in a matter pending before the court.
- (5) Compel the attendance of a witness.
- (6) Punish contempt.
- (7) Issue a warrant.
- (8) Set bail.
- (9) Enforce court rules.
- (10) Conduct a preliminary, an initial, an omnibus, or other pretrial hearing.
- (11) Conduct an evidentiary hearing or trial.
- (12) Receive a jury's verdict.
- (13) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.
- (14) Enter a final order, conduct a sentencing hearing, and impose a sentence on a person convicted of a criminal offense as

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described in section 9 of this chapter.

(15) Enter a final order or judgment in any proceeding involving matters specified in IC 33-29-2-4 (jurisdiction of small claims docket) or IC 34-26-5 (protective orders to prevent domestic or family violence).

(16) Approve and accept criminal plea agreements.

(17) Approve agreed settlements concerning civil matters.

(18) Approve:

(A) decrees of dissolution;

(B) settlement agreements; and

(C) any other agreements;

of the parties in domestic relations actions or paternity actions."

Page 1, after line 9, begin a new paragraph and insert:

"SECTION 4. IC 33-33-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. **(a)** Greene County constitutes the sixty-third judicial circuit.

(b) The judge of the Greene circuit court and the judge of the Greene superior court may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until jointly removed by the judge of the Greene circuit court and the judge of the Greene superior court.

SECTION 3. IC 33-33-49-32, AS AMENDED BY P.L.100-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 32. (a) In addition to the magistrate appointed under section 31 of this chapter, the judges of the superior court may, by a vote of a majority of the judges, appoint:

~~(1) eight (8) full-time magistrates under IC 33-23-5 after December 31, 2007, and until January 1, 2014, not more than four~~

~~(4) of whom may be from the same political party; and~~

~~(2) (1) twelve (12) full-time magistrates under IC 33-23-5 after December 31, 2013, and until January 1, 2016, not more than six (6) of whom may be from the same political party; and~~

(2) sixteen (16) full-time magistrates under IC 33-23-5 after December 31, 2015, not more than eight (8) of whom may be from the same political party.

(b) The magistrates continue in office until removed by the vote of a majority of the judges of the court.

(c) A party to a superior court proceeding that has been assigned to a magistrate appointed under this section may request that an elected



judge of the superior court preside over the proceeding instead of the magistrate to whom the proceeding has been assigned. A request under this subsection must be in writing and must be filed with the court:

- (1) in a civil case, not later than:
 - (A) ten (10) days after the pleadings are closed; or
 - (B) thirty (30) days after the case is entered on the chronological case summary, in a case in which the defendant is not required to answer; or
- (2) in a criminal case, not later than ten (10) days after the omnibus date.

Upon a timely request made under this subsection by either party, the magistrate to whom the proceeding has been assigned shall transfer the proceeding back to the superior court judge.

SECTION 5. IC 33-33-82-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. **(a)** The judge of the Vanderburgh circuit court may appoint ~~one (1)~~ **two (2)** full-time ~~magistrate~~ **magistrates** under IC 33-23-5. ~~The~~

(b) A magistrate continues in office until removed by the judge.".
 Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1110 as printed January 23, 2015.)

BROWN T

Committee Vote: yeas 15, nays 0.

